

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
ERNAKULAM**

Dated this the 18th day of October, 2023

Filed on: 08/06/2018

PRESENT

Shri.D.B.Binu

Shri.V.Ramachandran

Smt.Sreevidhia.T.N

President

Member

Member

C.C. No. 248/2018

COMPLAINANT

Karthik Mohan, S/o P. Mohan, EC-2/R-215, Ruby Block, Gems Park,
Mogappair Eri Scheme, Chennai – 600037.

(Rep. by Adv. Suresh B.S. (Chirakkara), Ambalathingal House, Pachalam
P.O., Kochi 12)

VS

OPPOSITE PARTIES

1. Ministry of Indian Railways represented by its secretary, Secretariat,
New Delhi,
2. General Manager, Thiruttani- Renigunta Hwy, NGO, Annexe,
Chennai, Tamil Nadu -600003.
3. Station Manager, Railway Station, Ernakulam Town, Ernakulam.

FINAL ORDER

D.B.Binu, President:

1) A brief statement of facts of this complaint is as stated below:

This complaint is filed under Section 12(1) of the Consumer Protection Act, 1986. The Complainant working as a Deputy Manager at Bosch Limited in Chennai. The complaint concerns a significant deficiency of service by Southern Railway, which had adverse consequences for the complainant's future career.

The complainant had booked a train journey from Ernakulam to Chennai with high expectations of reaching Chennai for an important meeting. However, the train experienced an unexpected delay of more than 13 hours. This delay disrupted not only the complainant's plans but also caused

distress to many other passengers, including NEET candidates and their parents.

The complaint emphasizes the significance of the Indian Railway as a vital mode of long-distance public transportation in India. The frequent delays and the failure to inform passengers promptly about these delays have eroded its reliability in the eyes of the public.

The complainant asserts that the railway authorities should have communicated the delay promptly and made alternate arrangements for passengers. The complainant seeks compensation for the inconvenience, stress, and financial losses incurred, particularly due to the cancellation of an important professional meeting.

In summary, the complaint is about the severe delay in train service by Southern Railway, which led to various hardships for passengers, including the complainant. The complainant is requesting compensation for the alleged negligence and deficiency of service by the railway authorities.

2). Notice

The Commission issued a notice to the opposite parties, which was duly received by them. In response, the opposite parties submitted their versions.

3). THE VERSIONS OF THE OPPOSITE PARTIES

The opposite parties operate trains based on a predetermined schedule, taking into account various factors such as track availability, station timings, passenger demands, and other requirements. However, the opposite parties noted that occasionally, unforeseen circumstances like track maintenance, signal failures, accidents, or acts of nature force them to divert, regulate, or cancel trains. This is done only when there are no better alternatives to maintain the scheduled timings.

In this specific case, Train No. 22640 Express on May 6, 2018, was rescheduled due to the recent arrival of the incoming rake of Train No.

22639, which was operating as Train No. 22640 Express. This delay was attributed to the diversion of the train via Villuppuram and Katpadi because of non-interlocked yard remodeling work at Arakkonam in the Chennai Division. The railway authorities emphasized that such decisions are made with passenger safety in mind.

The opposite parties also referenced a Supreme Court of India order (Civil Appeal No. 8852/2011), which affirms the railways' authority to make changes in train timings or connectivity if deemed necessary and feasible.

The opposite parties stated that they sent SMS notifications to all reserved passengers, including the complainant, to inform them of the delay and suggest alternate transportation options. The opposite party mentioned that a full refund was available to passengers, and the purpose of the journey was not specified at the time of ticket booking.

The response maintained that there was no deficiency, negligence, or lethargy on the part of railway staff. The allegations in the complaint were characterized as vague and nonspecific, and the opposite parties regarded the complaint as false, frivolous, and vexatious. They requested the commission to dismiss the complaint and consider awarding costs and compensatory costs to the opposite parties.

4) . Evidence

The complainant, in this case, has submitted a proof affidavit and five documents which are marked as Exhibits A-1 to A-5.

Exhibit A1: Electronic Reservation Slip of the Complainant

Exhibit A2: A Copy of SMS from the opposite parties sent to the Mobile Phone of the complainant.

Exhibit A3: A copy of the program scheduled by the company for the complainant in Chennai.

Exhibit A4: E-mail message from the company notifying the complainant about the postponement of the scheduled meeting.

Exhibit A5: A Copy of the notice served by the complainant to the opposite parties via email the opposite parties.

5) The main points to be analyzed in this case are as follows:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite parties to the complainant.
- iii) If so, whether the complainant is entitled to get any relief from the side of the opposite parties?
- iv) Costs of the proceedings if any?

6) The issues mentioned above are considered together and are answered as follows:

As per Section 2 (1) (d) of the Consumer Protection Act, 1986, a consumer is a person who buys any goods or hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment. The complainant produced a true copy of the Electronic Reservation Slip of the Complainant issued by the opposite parties (**Exhibit A-1**). This document revealed that the complainant had paid the requisite consideration for the product to the opposite parties. Hence, the complainant is a consumer as defined under the Consumer Protection Act, of 1986. (Point No. i) goes against the opposite parties.

The grievance pertains to the significant delay in the train service provided by Southern Railway. This delay resulted in multiple inconveniences for travelers, including the complainant raising this complaint. The complainant is seeking compensation due to the perceived oversight and subpar service by the opposite parties.

We have heard Sri. Suresh B.S, the learned counsel representing the complainant, explained that it is the duty entrusted upon the Railway to explain the delay that occurred that is beyond their control and /or even if there was some justification for the delay otherwise the railway is liable to pay compensation for delay and late arrival of trains. He explained that the complainant, employed as Deputy Manager at Bosch Limited in Chennai,

had made a reservation with Southern Railway for his return journey from Ernakulam to Chennai on May 6, 2018.

The purpose of the journey was to attend an important Customer Internal Meeting in Chennai. However, upon reaching the railway station on the scheduled day, the complainant received a message that the train, Train No. 22640 Express, was delayed by around 12 hours, which was later extended to 30 hours.

Due to the significant delay, the complainant attempted to arrange alternative travel but found no options available, as the NEET exam had caused a high demand for transportation. The complainant argued that if the railway authorities had communicated the delay earlier, passengers could have made alternative arrangements.

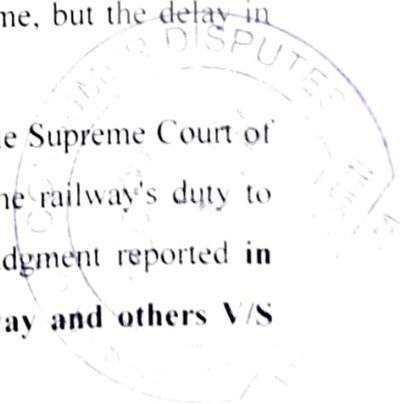
The complainant presented five documents (**Exhibit A-1 to Exhibit A5**) as evidence, including the electronic reservation slip, an SMS from the railway, a program schedule by the company, an email about the meeting's postponement, and a notice sent by email.

The complainant raised two main complaints against the railway authorities:

1. A 30-hour unexplained delay in train service from the scheduled time.
2. A lack of proper communication about the train delay as early as possible.

The railway authorities explained that the delay was due to the diversion of the train because of yard remodeling work at Arakkonam in Chennai. The opposite parties argued that they sent an SMS notification to reserved passengers two hours before the scheduled departure time, but the delay in communication was not adequately explained.

The complainant cited a judgment from the Honorable Supreme Court of India, highlighting the value of passengers' time and the railway's duty to explain delays that are beyond their control. In the judgment reported in **SLP (C 13-28-8 (2021)), in Northern Western Railway and others V/S**



Sanjay Sukhla (In paragraph 6), the Honourable Supreme Court of India says that the time of every passenger is precious. The opposite parties argued that the railway authorities should have known about the expected delay and informed passengers much earlier than they did. The complainant sought compensation of Rs. 5 lakhs from the railway authorities for their alleged deficiency of service in this case.

The complainant alleged that he reserved a train ticket for a journey from Ernakulam to Chennai, specifically on the Alleppey-Chennai Mail by Train No. 22640 on May 6, 2018. He stated that he received a message from the railway authorities informing him of a 12-hour delay in the scheduled train, which was later extended to 13 hours. Despite his efforts, he could not arrange alternative transportation and subsequently filed a complaint seeking compensation of Rs. 5,00,000 from the opposite parties for their service deficiency.

In response, Sri. Sajan K.B., the learned counsel for the opposite parties, strongly challenged the complainant's account of the events. He explained that the railway operates trains based on pre-planned schedules, taking into account various factors such as train paths, station timings, passenger demand, and unforeseen circumstances like track maintenance, signal failures, or accidents. They stated that in this case, Train No. 22640 Express on May 6, 2018, was rescheduled to depart from Alappuzha Station due to the late arrival of its pairing train, Train No. 22639. The delay was caused by the diversion of the train through Villuppuram and Katpadi due to yard remodeling work at Arakkonam in Chennai Division, a safety-related necessity.

The counsel for the opposite parties presented remarks from the Operating Branch of Southern Railway to support their argument, showing that the train was rescheduled due to circumstances beyond their control. They also referred to the Honourable Supreme Court judgment (Civil

Appeal No. 8852/2011) that affirmed the railway's authority to make changes in train timings and connectivity as necessary.

Additionally, they noted that SMS notifications were sent to all reserved passengers to inform them of the delay and suggest alternative transportation options. The counsel argued that the purpose of the complainant's journey was not disclosed at the time of ticket purchase, and there was no negligence or deficiency in service on the part of railway staff. They considered the complaint false, frivolous, and vexatious and requested its dismissal with costs and compensatory costs awarded to the opposite parties.

In the judgment, SLP (C) No. 13-28-8/2021, Northern Western Railway and Others v. Sanjay Sukhla (refer to paragraph 6), the Honourable Supreme Court of India held that:

“No evidence at all was led by the railways explaining the delay and/or late arrival of train at Jammu. The railways were required to lead the evidence and explain the late arrival of train to establish and prove that delay occurred because of the reasons beyond their control.”

The Honourable Supreme Court additionally ruled as follows:

“If the public transportation has to survive and compete with private players, they have to improve the system and their working culture. Citizen/passenger cannot be at the mercy of the authorities/administration. Somebody has to accept the responsibility. No interference of this Court is called for, in exercise of powers under Article 136 of the Constitution of India. 7. The special leave petition is, accordingly, dismissed.”

This judgment of the Honourable Supreme Court emphasizes the accountability of Indian Railways for any negligence or service deficiency. The late arrival of trains, without justifiable reasons, places liability on the railway authorities. It underscores that in today's age of competition and accountability, railway operations need to be improved to ensure their survival against private competitors.

Passengers have the right to timely and quality services, and they shouldn't be subject to the whims of the administration. The Railways must provide valid

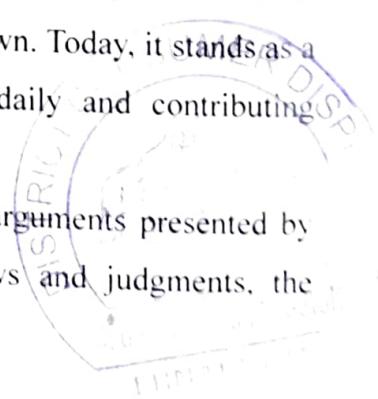
reasons for any significant delays, demonstrating that they were due to uncontrollable circumstances. The judgment reaffirmed that passengers' time is invaluable, and they deserve compensation for undue delays unless the Railways can prove a justifiable cause.

Despite being a significant Public Sector Undertaking and being governed by various laws, the Indian Railways often fails to provide efficient services. Issues like late trains and unavailability of reserved seats persist. Consumers' right to redressal, as highlighted in the Consumer Protection Act, ensures they can seek compensation for losses or unfair practices.\

The Consumer Protection Act of 1986 defines "deficiency" as any fault, imperfection, shortcoming, or inadequacy in the quality, nature, and manner of performance that is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service. In simpler terms, it refers to the failure or shortfall in the expected quality or standard of a service provided to a consumer. The Act allows consumers to seek compensation for losses resulting from negligence and gives the consumer commissions the power to award punitive damages when appropriate.

Indian Railways is a crucial connectivity and economic artery for India, linking people and places across the nation. Not only essential for travel and trade, it also drives economic growth by transporting vast amounts of freight annually. With the introduction of new trains, enhanced amenities, and initiatives to boost safety and security, its significance has only grown. Today, it stands as a pivotal player in India's economy, serving millions daily and contributing significantly to the nation's finances.

Having considered the complaint, versions, and arguments presented by both parties, the evidence provided, and relevant laws and judgments, the Commission hereby summarizes as follows:



- A. **Deficiency in Service:** As per the Consumer Protection Act 1986, "deficiency" is defined as any fault or inadequacy in the service provided. The complainant presented credible evidence, particularly **Exhibit A1-A5**, demonstrating that he availed the services of Southern Railway by paying the requisite fee. Therefore, he qualifies as a consumer under the said Act. The unexpected delay of over 13 hours, coupled with inadequate prior communication about the same, is indeed a deficiency in service. Furthermore, **the Honorable Supreme Court in the case of Northern Western Railway V/S Sanjay Sukhla** emphasized the accountability of railways in such situations.
- B. **Liability of the Railways:** While the opposite parties provided reasons for the delay, these reasons were neither unexpected nor sudden. Yard remodeling work at Arakkonam in Chennai Division is a planned activity, and the railway authorities should have been prepared to communicate the delay to passengers in advance, allowing them to make alternate arrangements.
- C. **Compensation:** The significance of a passenger's time is undeniable. The unexpected delay caused substantial inconvenience and distress, particularly to the complainant who had a pivotal professional commitment. Although the purpose of the journey was not specified at the time of ticket booking, the railways, as a major Public Sector Undertaking, ought to prioritize timely and efficient service.

We find the issue Nos. (II) to (IV) are also found in favour of the complainant for the serious deficiency in service that happened on the side of the opposite parties. Naturally, the complainant had suffered a lot of inconvenience, mental agony, hardships, financial loss, etc. due to the negligence on the part of the opposite parties. This order is rendered in favour of the complainant, reaffirming the principles of accountability, especially for institutions that form the backbone of a nation's connectivity and economy.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite parties are liable to compensate the complainant. Hence the prayer is partly allowed as follows:

- I. The Opposite Parties shall pay Rs.50,000/- to the complainant for the substantial inconvenience and financial repercussions experienced due to the deficiency of service and unfair practices committed by the Opposite Parties, and for the mental agony and physical hardships.

- II. The Opposite Parties shall also pay the complainant Rs. 10, 000/- towards the cost of the proceedings.

The Opposite Parties be jointly and severally liable for the above-mentioned directions which shall be complied with by the Opposite Parties within 30 days from the date of the receipt of a copy of this order. Failing which the amount ordered vide (i) and (ii) above shall attract interest @9 % from the date of deposit 07.06.2018 till the date of realization.

Pronounced in the Open Commission on this the 18th day of October, 2023

Sd/-

D.B.Binu, President

Sd/-

V. Ramachandran, Member

Sd/-

Sreevidhia.T.N, Member

Forwarded/By Order


Assistant Registrar

Appendix

Complainant's evidence

Exhibit A1: Electronic Reservation Slip of the Complainant

Exhibit A2: A Copy of SMS from the opposite parties sent to the Mobile Phone of the complainant.

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Exhibit A4: E-mail message from the company notifying the complainant about the postponement of the scheduled meeting.

Exhibit A5: A Copy of the notice served by the complainant to the opposite parties via email the opposite parties.

Opposite party's evidence

Nil

Despatch date:

By hand: By post

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CC No. 248/2018

Order Date: 18/10/2023

